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November 29, 2011

Ms. Kamala D. Harris
Attorney General
California Department of Justice
1300 I Street
Sacramento, CA 95814

Dear Ms. Harris:

Last week the Senate Transportation and Housing Committee held an informational hearing on alleged falsification of inspection data by one or more inspectors in the Department of Transportation's (Caltrans') Foundation Inspection Branch. An article in the November 13, 2011 edition of the *Sacramento Bee* prompted the committee to hold this hearing. The article reported that one inspector, Duane Wiles, falsified inspection data on three projects and possibly on the east span of the Bay Bridge, which is currently under construction.

The *Bee* also reported that Brian Liebich, the branch chief, continued to allow Wiles to perform his inspection duties after Liebich knew of the falsification. In addition, the article reported that Liebich's employees knew he had stolen state property for use on his private property near Susanville. The article alleged that Wiles and perhaps others in the branch assisted Liebich in the theft and in fabricating a gate.

An article published in the *Bee* on November 27, 2011 elaborates on the findings of the previous article and reports that the United States Department of Transportation's Inspector General conducted an investigation of Wiles' falsification of inspection data and the theft of state

materials for use on Liebich's property. The Inspector General's report, according to the *Bee*, confirms that Wiles and three other employees participated in the theft.

At the committee hearing, Caltrans representatives testified that they had reviewed the foundation testing data and found only three cases of falsification. Just prior to the hearing,

Caltrans made available to the committee the whistleblower letter that triggered Caltrans' investigation and possibly that of the Inspector General. The whistleblower alleges his review of "the records of work and other available project documents. . . found many irregularities in addition to the known falsifications." The whistleblower also alleges that the verification tests of the testing instrument required prior to conducting an inspection was lacking or falsified. This assertion contradicts Caltrans' testimony before this committee. I have enclosed a copy of the whistleblower letter.

Witnesses from Caltrans did not adequately explain why it took the publication of a newspaper article to fire Wiles three years after an engineer found irregularities in his testing data and after he acknowledged wrong doing in regard to an inspection in Riverside County. Similarly, Liebich's firing occurred after Caltrans' management knew of the theft of state property and the use of state employees for personal purposes.

I believe that failure to conduct reliable inspection tests on the foundations of bridges, freeway ramps, retaining walls, and other structures may erode the public's confidence in Caltrans' management of the state highway and bridge program. State government cannot be a safe haven for employees who shirk their public safety duties and who steal state property for private purposes.

To this end, I am requesting that your office investigate the allegations of professional and managerial improprieties in the Foundation Inspection Branch of Caltrans for any criminality. At a minimum, I ask that your office investigate the following for potentially criminal activities:

1. Caltrans employees' theft of state materials and use of state equipment as well as the use of employees on state time to transport the materials to a construction site on private property.
2. The falsification of inspection data from the construction of foundations for bridges, including the Bay Area toll bridges, and other structures.
3. The failure of Caltrans management to fire employees for falsifying data or stealing state construction materials.
4. Caltrans employees possibly intimidating the manager of the Foundation Inspection Branch because they had participated in the theft of state property, which in turn resulted

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in an unprofessional work environment and contributed to the falsification of inspection data.

5. The possibility that falsification of inspection data was to the benefit of one or more contractors or identification of other possible motives for such falsification.

In addition, please consider the several issues that the whistleblower's letter raises.

Should you have any questions regarding this request please do not hesitate to contact me at (916) 651-4007.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark DeSaulnier", with a stylized flourish at the end.

Mark DeSaulnier

Chair

Enclosure